

REMARKS

Claims 1-14 are pending, with claims 9-12 withdrawn from consideration.

Claims 1-8 are amended, and new claims 13 and 14 are added. Claim 1 is amended to address a claim objection; claim 6 is amended to address a rejection under 35 USC 112; claims 2-8 are amended to replace the phrase “as claimed in” with the phrase “according to” in the preamble of each claim; and new claim 14 retains features removed from amended claim 8.

No new matter is added to the application by this Amendment. The new features added to claims 1, 2, 6 and 8 and new 13 find support in Fig. 3, as originally filed, of the present application. The features added to claim 6 and new claim 13 also find support within the present specification, as originally filed, at, for example, at page 9, lines 1-5. New claim 14 finds support in claim 8, as originally filed.

Reconsideration of the application is respectfully requested.

I. Claim Objection

Claim 1 was objected to for alleged informalities. Specifically, claim 1 was objected to for reciting “[A] abrasion-resistant”. This rejection is respectfully traversed.

Amended claim 1 recites “[An] abrasion-resistant” as request by the Patent Office. In view of amended claim 1, this objection is moot.

Thus, Applicants respectfully request withdrawal of the objection to claim 1.

II. Rejection Under 35 USC 112

Claims 6 was rejected under 35 USC 112, second paragraph, as allegedly being indefinite for allegedly failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. This rejection is respectfully traversed.

Claim 6 is amended to overcome this rejection by removing the term “optional” from the claim as suggest by the Patent Office.

Thus, Applicants respectfully request withdrawal of the rejection under 35 USC 112, second paragraph.

III. Rejection Under 35 USC 103(b)

Claims 1, 3-5 and 8 were rejected under 35 USC 103(a) as allegedly being unpatentable over US Patent No. 4,705,715 to DeCoste Jr. et al. (hereinafter “DeCoste”) in view of DE 10107569 (hereinafter “DE 569”); and claims 2, 6, and 7 were rejections under 35 USC 103(a) as allegedly being unpatentable over DeCoste. This rejection is respectfully traversed.

With respect to claims 1, 3-5 and 8, the Patent Office acknowledges that DeCoste fails to teach or suggest that layer C is composed of a textile or basis weight (see page 4 of the Office Action). The Patent Office introduces DE 569 as allegedly teaching a layer that is an open but stable three-dimensional nonwoven structure. The Patent Office alleges that the resulting combination of DeCoste and DE 569 teaches or suggests each and every feature of claims 1, 3-5 and 8.

For claims 2, 6 and 7, the Patent Office alleges that DeCoste as modified by DE 569 with respect to claims 1, 3-5 and 8 is relied upon and that the features of

claims 2, 6 and 7 would have been obvious to a skilled artisan based on the teachings of DeCoste and DE 569.

Applicants respectfully disagree with the allegations by the Patent Office with respect to claims 1-8, as set forth in the Office Action.

Amended claim 1 requires a backing with a first outer layer A having a first side, wherein the first side of the first outer layer A is connected to a separate second layer C over the entire area of the first side of the outer layer A.

DeCoste does not teach a tape having two separate layers as required by claim 1. Instead, DeCoste teaches a single foam layer 14 with a scrim 12 located within the single foam layer 14 (see FIGS. 1 and 2 of DeCoste). Moreover, DeCoste teaches that the foam melt permeates the interstices of the cloth (scrim 12) whereby the cloth fibers may be said to be embedded in the foam layer 14 (see col. 4, lines 33-36 of DeCoste). Therefore, at best, DeCoste discloses a single layer made out of cloth whereby foam is integrated into the interstices of the cloth (see FIG. 1). Thus, DeCoste fails to teach or suggest the specifically defined features of claim 1.

Accordingly, DeCoste and DE 569, taken singly or in combination, do not teach or suggest a backing with a first outer layer A having a first side, wherein the first side of the first outer layer A is connected to a separate second layer C over the entire area of the first side of the outer layer A as required by amended claim 1.

Moreover, DeCoste and DE 569, taken singly or in combination, do not teach or suggest a tape having a mechanical bond formation joining, without adhesive, the separate layers A, B and C to form an assembly as required by amended claim 6

Moreover, DeCoste and DE 569, taken singly or in combination, do not teach or suggest that a backing is coated at least on one side with a self-adhesive layer, wherein the layer C has a thickness defined between a first side and a second side

opposite to the first side, wherein the entire thickness of layer C is located between the first side of the layer A and the self-adhesive layer as required by amended claim 8.

Because these features of independent claim 1 are not taught or suggested by DeCoste and DE 569, taken singly or in combination, these references would not have rendered the features of claim 1 and its dependent claims obvious to one of ordinary skill in the art.

For at least these reasons, claims 1-8 are patentable over DeCoste and DE 569, taken singly or in combination. Thus, withdrawal of the rejection under 35 USC 103(a) is respectfully requested.

IV. New Claim 13

Applicants take this opportunity to submit that the combination of DeCoste and DE 569 does not teach or suggest a tape having a laminating adhesive joining the separate layers A, B and C to form an assembly as recited in new claim 13.

Accordingly, claim 13 is patentable over DeCoste and DE 569, taken singly or in combination.

V. Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-14 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Early and favorable action is earnestly solicited.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
NORRIS MC LAUGHLIN & MARCUS, P.A.

By /Brian C. Anscomb/
Brian C. Anscomb
Reg. No. 48,641
875 Third Avenue, 8th Floor
New York, New York 10022
Phone: (212) 808-0700
Fax: (212) 808-0844